

S.B.CR MISC. BAIL APPLICATION NO.2877/2006

Date : 12.07.2006

HON'BLE MR. SATYA PRAKASH PATHAK,J.

Mr. B.P. Bohra for the applicant.
Mr. V.R. Mehta, Public Prosecutor for State.
Mr. Pradeep Shah for complainant.

Heard learned counsel for the applicant and learned Public Prosecutor and carefully gone through the charge sheet.

The contention of learned counsel for the applicant is that no case under Section 304B IPC is made out against the applicant. According to learned counsel, no demand of dowry is there before death of the deceased, therefore, provisions of Section 304B IPC are not attracted in the instant case. He submits that relation of the deceased and the father-in-law was stated by some witnesses. He further submits the deceased was never harassed by the applicant, therefore, provisions of Section 498A are also not attracted in the instant case.

On the other hand, learned Public Prosecutor has opposed the bail application and submitted that in such heinous offence, the applicant should not be enlarged on bail.

I have considered the submissions made before me and perused the material available on record.

I do not want to express my opinion on the merits of the case but it is suffice to say that from the statements recorded under Section 161 Cr.P.C., prima facie it appears that the accused applicant used to take liquor and maltreat the deceased. Be that as it may, in view of peculiar facts and circumstances of the case, I do not find it to be a fit case to grant benefit of Section 439 Cr.P.C. Accordingly, the bail applications stands dismissed. However, the applicant shall be at liberty to move a fresh bail application after material witnesses are examined, if considered proper. The learned trial court is directed to expedite the trial.

(SATYA PRAKASH PATHAK), J.